REMARKS

Claims 1, 4, 15 and 16 are amended. Claim 13 and 17 were previously cancelled. Upon entry of the amendment, claims 1-12, 14-16, and 18-20 are pending in the application. Of the pending claims, claims 18 and 19 are allowed.

Claim Objections

Claims 1, 4, 15 and 16 are amended in a manner calculated to address informalities identified by the Examiner. Claims 4, 15 and 16 are amended in the manner suggested by the Examiner.

Claim 1 is amended to provide antecedent basis for "each of the coefficients." The Examiner's suggested amendment to claim 1 is improper because the recited variables and coefficients are different and distinct terms.

The amendments to claim 1, 4, 15 and 16 are believed to overcome any objections properly raised by the Examiner.

Allowable Subject Matter

In the Office Action mailed February 22, 2006, the Examiner indicated that claims 1-7 and 14-16 would be allowable if rewritten or amended to overcome the objection set forth in the Office Action. As stated above, claims 1, 4, 15 and 16 have been amended to overcome the objections set forth in the Office Action. Claims 1-7 and 14-16 are in condition for allowance. Claims 18 and 19 are also allowed.

The Examiner indicated that claims 9-12 and 20 recite patentable subject matter. Claims 9-12 and 20 are patentable for at least this reason.

Claim Rejection 35 U.S.C. § 102

Claim 8 is rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,837,122 to Herrmann et al (Herrmann). Herrmann discloses a device and method

for detecting the mass and/or moisture of material running through a spinning preparation machine. The purpose of detecting the mass and/or moisture content is to provide feedback inputs to the spinning equipment on a continuous basis so the equipment will produce a consistent product. Claim 8 recites in pertinent part "an apparatus for determining the mass of portioned units of active substances, in particular, capsules, tablets or dragees." In contrast, Herrmann teaches the measurement of the mass per unit length of material running through a microwave resonator. Herrmann does not disclose, teach or suggest an apparatus for determining the mass of portioned units as required by claim 8.

Claim 8 also recites "a device for removing individual units of active substances." Herrmann discloses testing of strands of material to determine its mass per unit length and does not disclose, teach or suggest "a device for removing individual units of active substances" as recited in claim 8. Herrmann discloses a continuous process for maintaining the quality of material produced in a spinning preparation machine and does not disclose, teach or suggest the removal of any strand or individual unit.

Claim 8 further recites "and a second microwave resonator with measuring and evaluation electronics for determining the mass of the units of active substances before filling." Herrmann discloses testing strands of material and does not disclose, teach or suggest "determining the mass of portioned units of active substances" or "determining the mass of the units of active substances before filling."

As discussed above, Herrmann does not disclose, teach or suggest several limitations of claim 8. The apparatus of Herrmann is from a distinct and very different field of technology. Claim 8 is patentable over Herrmann for at least these reasons.

Claims 9-12 and 20 depend directly or indirectly from claim 8 and are patentable for at least the reasons stated in support of claim 8.

Claim Rejections 35 U.S.C. § 103

Claim 9 is rejected under 35 U.S.C. § 103 as unpatentable over Herrmann in view of U.S. Patent No. 5,602,485 to Mayer et al. (Mayer). Mayer discloses an

apparatus for screening capsules using velocity measurements. In Mayer, the weight of individual capsules is determined by passing a stream of capsules past a capacitance sensor which measures the capacitance of each capsule as representative of the capsule weight and passing the stream of capsules past a velocity sensor which measures the velocity of each capsule as representative of the capsule weight. Applicant describes the approach taken in Mayer as a prior art attempt to overcome disadvantages in the field of monitoring the masses of units of active substances. See paragraph 5 of Pub. No. US 2004/0225454 A1.

Herrmann and Mayer are very different and distinct technologies constructed for very different purposes. The materials tested in Herrmann are continuous fiber strands and have no need for conveyance by air stream. One of ordinary skill in the art in possession of Herrmann would have no incentive or motivation to seek out the teachings of Mayer.

In addition, claim 9 depends from claim 8 and, as discussed above, Herrmann does not disclose, teach or suggest the recitations of claim 8. Claim 9 is patentable because the Examiner's suggested combination of Herrmann and Mayer does not disclose, teach or suggest all the limitations of claim 9 and, further, lacks a motivation supported in the specifications of Herrmann or Mayer, or in the knowledge of one of skill in the art as required by MPEP § 2143.

Claim 9 is patentable over the Examiner's suggested combination for at least these reasons.

For all the foregoing reasons, Applicant respectfully requests allowance of claims 1-12, 14-16, and 18-20.

Respectfully submitted,

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